IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.1241 of 2002

Ashok Kumar Mehta son of Late Amarnath Prasad, resident of village & PO Onda, PS Benar, District Nalanda, presently posted as Junior Engineer in the office of Executive Engineer, Water Drainage Division, Water Resources Department at Samastipur

VERSUS

1. The State of Bihar
2. The Secretary, Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna- 800015
3. The Deputy Secretary, Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna- 800015
4. The Under Secretary, Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna- 800015
5. The Superintending Engineer, Flying Squad Circle-2, Department of Water Resources, Government of Bihar, Sichai Bhawan, Patna- 800015
6. The Executive Engineer, Water- Drainage Division, Water Resources Department, Samastipur.

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4 20.11.2008 Heard learned counsel for the petitioner and learned counsel for the State.

By order dated 11.11.2008 this Court granted time to the counsel for the State to verify the correctness of submission made in paragraph 28 of the writ petition in which it has been stated that for similar charges the then Executive Engineer, Sri Bachchu Lal Choudhary has been penalized but his punishment has been quashed by this Court and the respondents deliberately ignored this fact while inflicting punishment upon the petitioner. Learned counsel for the State has submitted on the basis of a supplementary counter affidavit filed on 18.11.2008 that the aforesaid submission in paragraph

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28 of the writ petition is false and the punishment awarded to the concerned Executive Engineer Mr Bachchu Lal Choudhary has not been quashed by this Court. Rather, the writ petition is still pending and, therefore, the allegation that respondents have deliberately ignored such a fact while inflicting punishment upon the petitioner, is incorrect.

The affidavit in support of the writ petition discloses that paragraph 28 has been sworn as a statement true to knowledge of the petitioner. On account of statement in the supplementary counter affidavit noticed above the petitioner deserves to be punished for misleading this Court by stating falsehood on oath. Ordinarily, this Court would have ordered for his prosecution through an appropriate proceeding but considering that already he has been punished in disciplinary proceeding and awarded some punishments by the impugned order dated 12th November, 2001 (Annexcure-20), this Court warns the petitioner to be careful in future in such matters.

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On merits, this Court finds that the procedural irregularity in not framing charges correctly has already been cured pursuant to order passed by this Court on 18.5.2000 (Annexure-15) in the earlier writ petition preferred by the petitioner. Thereafter, he has been given adequate opportunity to defend the allegations. On behalf of the petitioner it has

been submitted that there is no material to show that different materials were actually stolen or removed from the site and, therefore, petitioner cannot be held responsible for the loss in question.

A careful reading of the charges which have been proved and mentioned in the impugned order (Annexure-20) makes it clear that the allegations are of somewhat different nature and deeper significance. The authorities have alleged that on receipt of materials the same were not reflected by preparing proper inventory and accounts and no arrangement was made for security of those items already received and that has led to loss of items. The inventory and accounts had to be prepared when the items were received and that was during tenure of the petitioner. The opinion of the enquiry officer and the disciplinary authority do not suffer from any illegality or perversity so as to warrant interference in this Court.

Hence, the writ petition is dismissed.

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(Shiva Kirti Singh, J.)

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